

AMENDED IN SENATE AUGUST 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2013**

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**Introduced by Assembly Member Jones-Sawyer**

February 16, 2016

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An act to add and repeal Section 991.5 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL’S DIGEST

AB 2013, as amended, Jones-Sawyer. Criminal procedure: arraignment pilot program.

Existing law requires the magistrate, on motion of counsel for the defendant or the defendant, when the defendant is in custody at the time he or she appears before the magistrate for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, to determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty of that offense. Existing law requires the determination of probable cause to be made immediately, unless the court grants a continuance not to exceed 3 court days, for good cause.

This bill would establish a ~~5-year~~ 3-year pilot project in ~~6~~ 3 counties, as specified, that would require a court to apply those same procedures ~~in the case of an~~ to the arraignment of a defendant who is not in custody for a public offense that is a misdemeanor to which the defendant has pleaded not guilty, except that this bill would allow the court to grant a continuance not to exceed 15 days to determine probable cause.

The bill would require the Department of Justice to provide information to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the appropriate policy

committees of the Legislature regarding the implementation of the above provisions no later than July 1, ~~2021~~. 2020.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 991.5 is added to the Penal Code, to read:  
2 991.5. (a) On or before July 1, 2017, ~~six~~ *three* counties shall  
3 be selected to participate in a ~~five-year~~ *three-year* pilot project  
4 that would require a court, upon request by the defendant in the  
5 case of a defendant charged with a misdemeanor who is not in  
6 custody, to make a finding at the arraignment as to whether  
7 probable cause exists to believe that a public offense has been  
8 committed and that the defendant is guilty thereof.

9 (b) The pilot counties shall be selected by a ~~five-member~~  
10 *three-member* committee. One member of the committee shall be  
11 selected by the California Public Defenders Association, one  
12 member of the committee shall be selected by the California  
13 District Attorneys Association, *and* one member of the committee  
14 shall be selected by the Judicial Council, ~~and two members of the~~  
15 ~~committee shall be selected by the Governor. The committee shall~~  
16 ~~select the six counties that will participate in the pilot project,~~  
17 ~~provided, however, that the County of Los Angeles shall be~~  
18 ~~included in the pilot project.~~ *Council. The committee shall be*  
19 *convened by the California Public Defenders Association and the*  
20 *California District Attorneys Association. The committee shall*  
21 *select one small county, one medium county, and one large county*  
22 *to participate in the pilot project. The committee shall consult with*  
23 *the relevant local officials in the eligible counties in making its*  
24 *selections. A county selected for the pilot project shall have a*  
25 *county public defender's office. For purposes of this section, the*  
26 *following terms have the following meanings:*

27 (1) A "small county" means a county with a population of not  
28 less than two hundred fifty thousand (250,000) residents and not  
29 more than seven hundred fifty thousand (750,000) residents.

30 (2) A "medium county" means a county with a population of  
31 not less than seven hundred fifty thousand one (750,001) and not  
32 more than two million six hundred thousand (2,600,000) residents.

1 (3) A “large county” means a county with a population of not  
2 less than two million six hundred thousand one (2,600,001)  
3 residents.

4 (c) The following arraignment procedure shall apply in the pilot  
5 project counties:

6 (1) When the defendant is out of custody at the time he or she  
7 appears before the magistrate for arraignment and the public  
8 offense is a misdemeanor to which the defendant has pleaded not  
9 guilty, the magistrate, on motion of counsel for the defendant or  
10 the defendant, shall determine whether there is probable cause to  
11 believe that a public offense has been committed and that the  
12 defendant is guilty thereof.

13 (2) The determination of probable cause shall be made  
14 immediately, unless the court grants a continuance for good cause  
15 not to exceed 15 court days.

16 (3) In determining the existence of probable cause, the  
17 magistrate shall consider any warrant of arrest with supporting  
18 affidavits, and the sworn complaint together with any documents  
19 or reports incorporated by reference thereto, which, if based on  
20 information and belief, state the basis for that information, or any  
21 other documents of similar reliability.

22 (4) If, after examining these documents, the court determines  
23 that there exists probable cause to believe that the defendant has  
24 committed the offense charged in the complaint, it shall maintain  
25 the trial date already calendared for the defendant.

26 (5) If the court determines that no probable cause exists, it shall  
27 dismiss the complaint and discharge the defendant.

28 (6) The prosecution may refile the complaint within 15 days of  
29 the dismissal of a complaint pursuant to this section.

30 (7) A second dismissal pursuant to this section is a bar to any  
31 other prosecution for the same offense.

32 (d) (1) No later than July 1, ~~2021~~, 2020, the Department of  
33 Justice shall provide information to the Assembly Committee on  
34 Budget, the Senate Committee on Budget and Fiscal Review, and  
35 the appropriate policy committees of the Legislature regarding the  
36 implementation of this section, including, but not limited to, the  
37 number of instances that a prompt probable cause determination  
38 made to an Out of Custody defendant facing a misdemeanor charge  
39 resulted in the defendant’s early dismissal.

1 (2) A report submitted pursuant to paragraph (1) shall be  
2 submitted in compliance with Section 9795 of the Government  
3 Code.

4 (e) This section shall become inoperative on July 1, ~~2022~~, 2020,  
5 and, as of January 1, ~~2023~~, 2021, is repealed, unless a later enacted  
6 statute, that becomes operative on or before January 1, ~~2023~~, 2021,  
7 deletes or extends the dates on which it becomes inoperative and  
8 is repealed.